

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. 1:19-cr-10002-JDB-1

LUTHER RAY WILLIAMS,

Defendant.

ORDER DETERMINING DEFENDANT HAS FAILED TO ESTABLISH GOOD CAUSE OR
EXCUSABLE NEGLECT WARRANTING AN EXTENSION OF THE APPEAL PERIOD

On January 13, 2023, this Court entered an order denying on the merits the pro se request of the Defendant, Luther Ray Williams, for compassionate release. (Docket Entry (“D.E.”) 113.) He filed a notice of appeal, docketed February 21, 2023. (D.E. 114.) On appeal, the Government argued that the notice was untimely. The Sixth Circuit agreed, finding in an order entered March 20, 2023, that the notice was filed twenty days late, citing Rule 4(c)(1) of the Federal Rules of Appellate Procedure. (D.E. 116.) Under Fed. R. App. P. 4(b)(4), however, a district court may extend the time for filing a notice of appeal for a period not to exceed thirty days on a finding of good cause or excusable neglect. Williams’s notice of appeal, which was filed within that thirty-day period, is, the appeals court determined, to be treated as a request for an extension of time to file an appeal. (*See id.*) The circuit court therefore remanded this matter to the undersigned for the limited purpose of deciding whether the inmate could show excusable neglect or good cause warranting an extension of the appeal period.

Pursuant to the appellate court's instruction, this Court entered an order on March 21, 2023, directing Defendant to file his brief supporting an extension of the appeal period on or before April

20, 2023. (D.E. 118.) The Clerk forwarded a copy of the order to Williams. To date, no brief has been filed by the Defendant and the time for such filing has expired. With nothing before it upon which it might base a determination of good cause or excusable neglect, the Court cannot make a finding therefor. *See United States v. Bartlebaugh*, No. 1:09-CR-251, 2010 WL 411324, at **1-3 (N.D. Ohio Jan. 28, 2010) (where the district court is without basis upon which to find excusable neglect or good cause, a motion to enlarge the time to file a notice of appeal cannot be granted). Thus, this Court concludes that an extension of time to file an appeal is not warranted.

The Clerk is DIRECTED to forward copies of this order to the Sixth Circuit Court of Appeals and to the Defendant at the prison facility address listed on the docket.

IT IS SO ORDERED this 23rd day of May 2023.

s/ J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE